

CALIFORNIA STATE PERSONNEL BOARD MEETING
801 Capitol Mall
Sacramento, California

Public Session Location - Room 150
Closed Session Location - Room 141

MID-MONTH BOARD MEETING MINUTES

JULY 20, 1999

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

Florence Bos, President
Ron Alvarado, Vice-President
Richard Carpenter, Member
William Elkins, Member
Sean Harrigan, Member

2. REPORT OF THE EXECUTIVE OFFICER - Walter Vaughn

The Board was advised of the following:

- A. The Board's preparation for Y2K issues has been reviewed by representatives of the Department of Information Technology and received a positive rating.
- B. Staff is reviewing sites for the October Board planning session.

3. REPORT OF THE CHIEF COUNSEL - Elise Rose

The Chief Counsel reported on:

Litigation:

- A. State Personnel Board v. Department of Personnel Administration (DPA) - Opening brief due August 12, 1999. We are seeking an extension, as issue may become moot once Association of California State Attorneys (ACSA) case is decided.
- B. Association of State Attorneys and Administration Law Judges (ACSA) v. Department of Personnel Administration (DPA) - State Personnel Board's request to file amicus brief, was granted and brief has been filed. Parties may respond by July 23, 1999, at which time matter will be deemed submitted.

Other:

- A. State Employee Mediation Program (SEMP) - Meeting of trained mediators scheduled for July 21, 1999, at which time we will share information and have some training on some of the complex issues that have arisen in the last year (e.g. dealing with large group mediations).
- B. State Employee Mediation Program (SEMP) Report - We are drafting a year-end report that will show over 100 cases mediated since the inception of the program with a resolution rate of 97%. Number of participating departments has tripled as has number of cases referred to the program.

4. REPORT ON LEGISLATION - Judy Balmain

The Board was advised of the following:

- A. SB 1073 (Ortiz) - The Board's omnibus bill is on the Assembly consent file and will go to the Governor in August.
- B. The Legislature is on summer break until August 16, 1999. The legislative session ends September 10, 1999, and the Governor has until October 10, 1999, to take action on bills.

- C. Luanne Morikawa will be the new Legislative Director for Department of Personnel Administration, she is a former Legislative Assistant to Assemblyman Fred Keeley.

The State Personnel Board voted on the following legislative bills.

- A. AB 724 (Durta) - Would require Department of Personnel Administration and State Personnel Board to establish a year 2000 temporary worker pool to provide expertise to departments, agencies, and Department of Information Technology on issues related to Y2K. State Personnel Board would be required to establish guidelines and rules to govern the worker pool. Neutral
Vote: Bos, Carpenter, Elkins, Harrigan - Aye
- B. AB 794 (Corbett) - Would add electronic data to the definition of personal records. The intent of the bill is to clarify current practice as it relates to inspection and copying of subpoenaed personal and employment records. Neutral
Vote: Bos, Carpenter, Elkins, Harrigan - Aye

BOARD ACTIONS

5. STATE PERSONNEL BOARD SUMMARY MINUTES OF JULY 7, 1999

ACTION: Adopted on July 20, 1999.

VOTE: Bos, Carpenter, Elkins, Harrigan - Aye.

6. ACTION ON SUBMITTED ITEMS

ACTION: (See page 11)

7. ADMINISTRATIVE LAW JUDGE CASES

On July 20, 1999, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Bos, Carpenter, Elkins, Harrigan - Aye.

PROPOSED DECISIONS

CANDACE LES, CASE NO. 98-1691
Appeal from dismissal
Franchise Tax Board
ACTION: Dismissal modified to 10-calendar days suspension

LAURIAN FRANKLIN, CASE NO. 98-3741
Appeal from dismissal
Department of the Youth Authority
ACTION: Dismissal sustained

MICHAEL W. SHORTNACY, CASE NO. 99-0008
Appeal from dismissal
Department of Corrections
ACTION: Dismissal sustained

LISA KOCH, CASE NO. 98-4756
Appeal from demotion
Board of Equalization
ACTION: Demotion sustained

SUZANNE GARCIA, CASE NO. 99-0013
Appeal from 15 working days suspension
Department of Motor Vehicles
ACTION: Suspension sustained

ARTHUR MARINES, CASE NO. 98-4848
Appeal from separation of Limited Term Appointment for cause
California Conservation Corps
ACTION: Board took proposed decision under submission to be considered at next meeting

JOHN LOWE, CASE NO. 98-2916
Appeal from dismissal
Department of Transportation
ACTION: Dismissal modified to 3 months suspension

BRENDA ALLEN, CASE NO. 98-4589
Appeal from demotion
Department of Consumer Affairs
ACTION: Demotion modified to the position of Management Services Technician

YOLANDA ANDERSON, CASE NO. 99-0580
Appeal from 1 step reduction in salary for 6 months
Department of Corrections
ACTION: Board adopted Findings of Fact of the
Administrative Law Judge, but modified penalty to Official
Reprimand

RICHARD C. ESCALANTE, CASE NO. 98-4842
Appeal from demotion
Department of Corrections
ACTION: Board adopted Findings of Fact of the
Administrative Law Judge, but modified penalty to Official
Reprimand

MICHAEL E. KULLANDER, CASE NO. 98-4761
Appeal from 30-calendar day's suspension
Department of Corrections
ACTION: Board adopted Findings of Fact of the
Administrative Law Judge, but modified penalty to Official
Reprimand

YVONNE PELAIZ, CASE NO. 99-0679
Appeal from dismissal
Department of Motor Vehicles
ACTION: Dismissal sustained

FRANCES VILLEGAS, CASE NO. 98-0605
Appeal from rejection
Department of the Youth Authority
ACTION: Rejection affirmed and appeal denied

ANNA TARANTO, CASE NO. 98-3480
Appeal from medical demotion
Department of Rehabilitation
ACTION: Medical demotion sustained

SUSON WILLIAMS, CASE NO. 98-4044
Appeal from 5 percent reduction in salary for 6 months
State Board of Equalization
ACTION: Reduction in salary modified to 5 Percent for 3
months

DIANE MEK, CASE NO. 98-2147
Appeal from dismissal
Human Services Agency, Merced County
ACTION: Dismissal sustained

DEANNA DAVIES, CASE NO. 99-0073
Appeal from denial of back pay after reinstatement
State Board of Equalization
ACTION: Appeal for back salary, benefits and interest
denied

GEORGE HERNANDEZ, CASE NO. 98-5067
Appeal from dismissal
Department of Parks and Recreation
ACTION: Board adopted Findings of Fact of the
Administrative Law Judge, but modified penalty to 4 months
suspension

PETITIONS FOR REHEARING

DEBORAH STAR, CASE NO. 99-0437
Appeal from C.E.A. termination
Department of Corrections
ACTION: Petition for rehearing filed by appellant denied

PARIS MERRIAM, CASE NO. 97-5010
Appeal from dismissal
Department of Industrial Relations
ACTION: Petition for rehearing filed by appellant denied

GERALD JONES, CASE NOS. 98-1250 & 98-1918
Appeal from 5 percent reduction in salary for 3 months and
dismissal
Board of Control
ACTION: Petition for rehearing filed by respondent denied

8. RESOLUTION RE NOTICE OF GOVERNMENT CODE SECTION 18671.1
EXTENSION.

ACTION: (See pages 12-15)

9. MISCELLANEOUS APPEALS DIVISION CASES
(Discrimination Complaints, Withholds, Voided Appointments,
Rule 211 Appeals, Petitions for Rehearing)
On July 20, 1999, the Board adopted the following decisions
presented by Linda Brooks, Assistant Executive Officer,
California State Personnel Board.
VOTE: Bos, Carpenter, Elkins, Harrigan - Aye.

PETITION FOR REHEARING

- A. CARL A. SIMS, Case No. 99-2115
Classification: Cadet, California Highway Patrol
ACTION: DENIED

WITHHOLD CASES

- B. EDUARDO FUENTES, Case No. 98-1020
Classification: Transportation Planner
ACTION: DENIED
- C. DARRELL RICE, Case No. 98-1894
Classification: Fire Apparatus engineer
ACTION: DENIED
- D. GEORGE A. ZUKOWSKI, Case No. 98-4209
Classification: Associate Information Systems Analyst
ACTION: DENIED

10. MEDICAL APPEALS

On July 20, 1999, the Board adopted the following decisions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Bos, Carpenter, Elkins, Harrigan - Aye.

- A. JOSEPH ALVARA, Case No. 98-2753
Classification: Automotive Equipment Operator I
ACTION: GRANTED
- B. JEREMY ANDERSON, Case No. 98-4560
Classification: Correctional Officer
ACTION: DENIED
- C. HUGO CALATAYUD, Case No. 98-3280
Classification: Youth Correctional Counselor
ACTION: DENIED
- D. ANDREW ESTES, Case No. 98-2829
Classification: Cadet, California Highway Patrol
ACTION: DENIED
- E. CESAR MORENO, Case No. 98-3950
Classification: Correctional Officer
ACTION: DENIED
- F. MICHAEL NUNES, Case No. 98-4642
Classification: Cadet, California Highway Patrol

ACTION: DENIED

- G. JORGE OCHOA, Case No. 99-0635
Classification: Youth Correctional Counselor
ACTION: DISMISSED
- H. JOSE REYES, Case No. 98-3663
Classification: Youth Correctional Counselor
ACTION: DENIED
- I. GUSTAVO SAENZ, Case No. 99-0634
Classification: Youth Correctional Counselor
ACTION: DISMISSED
- J. JUAN AGUIRRE, Case No. 99-0124
Classification: Correctional Officer
ACTION: DISMISSED - Appellant did not confirm
appearance for scheduled hearing.

11. EXAMINATION APPEALS

On July 20, 1999, the Board adopted the following decisions
presented by Linda Brooks, Assistant Executive Officer,
California State Personnel Board.

VOTE: Bos, Carpenter, Elkins, Harrigan - Aye.

- A. JOEL DAVIS Case No. 98-1655
Final Filing Date: NO BULLETIN IN FOLDER
Examination: Qualifications appraisal interview
Class: Correctional Officer
Testing Agency: Department of Corrections
Appeal Received: May 6, 1998
ACTION: DENIED
- B. ALLYN M. KAYE Case No. 98-2397
Final Filing Date: NO BULLETIN IN FOLDER
Examination: NO BULLETIN IN FOLDER
Class: Supervising State Park Ranger
Testing Agency: Department of Parks and Recreation
Appeal Received: June 17, 1998
ACTION: GRANTED
- C. LONNIE L. COPELAND, Case No. 98-4561
ACTION: DISMISSED - Department withdrew action.

12. MERIT ISSUE COMPLAINT APPEALS

On July 20, 1999, the Board adopted the following decisions
presented by Linda Brooks, Assistant Executive Officer,
California State Personnel Board.

VOTE: Bos, Carpenter, Elkins, Harrigan - Aye.

- A. BILL LAMASCUS, Case No. 98-4878
Classification: Associate Transportation Engineer
ACTION: GRANTED
- B. KERRY MAHONEY, Case No. 98-0635
Classification: Employment Program Representative
ACTION: DISMISSED

13. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

A. CEA POSITION ACTIONS CURRENTLY UNDER CONSIDERATION

(1) CHIEF, TAX ENGINEERING & MODERNIZATION PROJECT
(TEAM)

The Employment Development Department is requesting a 24-month extension for the above position, which has been allocated to the CEA category for 24 months. The Department indicates that this position will report to the Chief of the Information Technology Branch; will be responsible for the development and implementation of a more streamlined tax reporting system and will continue to advise top level management on project and policy development.

(2) ADMINISTRATOR, CORCORAN HOSPITAL

The Department of Corrections proposes to allocate the above position to the CEA category. The Department indicates that the position will be responsible for policy formulation, management, direction and control of health care operations at the licensed acute care hospital.

(3) CHIEF EXAMINER

The Department of Corporations proposes to allocate the above position to the CEA category. The department indicates that the position will be responsible for the overall management and operations of the Health Plan Division, Financial Examination Program and for policy development, planning analysis and evaluation of the Financial Examination Program.

B. CEA POSITION ACTIONS APPROVED BY DPA AND APPROVED OR
DENIED BY SPB MANAGEMENT

July 20, 1999

- (1) MANAGER, LICENSING PROGRAM
The Department of Consumer Affair's proposed allocation of the above position to the CEA category has been approved.

ACTION: Noted

A D J O U R N M E N T

SUBMITTED

1. YVONNE M. VILLANUAVA, CASE NO. 97-3061. Appeal from dismissal. Department of Corrections. (Oral argument held May 4, 1999.)

ACTION: On July 20, 1999, adopted Board decision revoking dismissal.

VOTE: Bos, Elkins and Harrigan - Aye
Alvarado and Carpenter - No

2. ETHEL WARREN, CASE NO. 98-2130. Appeal from dismissal. Department of Corrections. (Oral argument held June 8, 1999.)

NO ACTION

3. SAMUEL SALGADO, CASE NO. 98-1290. Appeal from dismissal. Department of Corrections. (Oral argument held June 8, 1999.)

NO ACTION

4. JOSEPH P. CARLSON, CASE NO. 98-3904. Appeal from dismissal. Department of Mental Health. (Oral argument held July 7, 1999.)

NO ACTION

NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional forty-five days, the Board hereby publishes its substantial reasons for the need for the forty-five day extension for some of the cases now pending before it for decision.

An additional forty-five days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than 6 months as of the date of the Board meeting.

GOVERNMENT CODE § 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

July 20, 1999

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on July 20, 1999.

WALTER VAUGHN
Executive Officer
California State Personnel Board

VOTE: Bos, Carpenter, Elkins, Harrigan - Aye.